**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.5239 OF 2007

DATED 15th MARCH, 2007

Between

Boyapati Anjaneyulu Naidu

... Petitioner

AND

The Chief Commissioner of Land Administration,
Government of Andhra Pradesh, Hyderabad, and others.

.... Respondents

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.5239 OF 2007

**ORDER:**

The petitioner's father late Venkatappa Naidu allegedly purchased land admeasuring about Acs.10.00 in survey No.33 situated in Charvaganipalle Village of Penumur Mandal in Chittoor District (hereinafter called, the subject lands) under two registered sale deeds of 1910 and 1926. Charvaganipalle village is an Estate village, which was taken over by the Government on 01.10.1951 under the provisions of A.P. (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (the Act, for brevity). During the survey and settlement operations, the land in survey No.33 (subject land) and the land in survey No.36/3 were classified as Government poramboke land, but the petitioner allegedly continued in possession and he raised coconut, mango, gua, margosa and ragi trees. He applied under Section 11(a) of the Act for ryotwari patta. By order, dated 27.10.1998, in S.R.No.4/11(a)/88, the Joint Collector-cum-Settlement Officer, Chittoor rejected the claim for ryotwari patta. The petitioner filed a revision under Section 5(2) of the Act before the Special Commissioner and Director of Settlements, Hyderabad and the same was allowed on 03.04.2002. Aggrieved by the same, the Mandal Revenue Officer (MRO) – second respondent; preferred revision under Section 7(d) of the Act. By impugned order, dated 09.12.2005, the first

respondent allowed the revision and set aside the orders, dated 03.04.2002, passed by the Director of Settlements. Feeling aggrieved by the same, the petitioner filed instant writ petition seeking a writ of Certiorari to quash the order of the first respondent.

Learned counsel for the petitioner firstly submits that the impugned order of the first respondent was communicated to the petitioner on 03.01.2006. As the petitioner's daughter and wife fell sick and his son died, the petitioner was depressed and he could not immediately file the present writ petition. Secondly, he would urge that the first respondent allowed the revision of the second respondent without giving any reasons and therefore, the order is bad. Lastly, he would submit that there is abundant evidence to show that the subject land is not one of the categories of lands in respect of which grant of ryotwari patta is prohibited. **Opposing** the writ petition, learned Assistant Government Pleader for Revenue (General-A) appearing for respondents 1 and 2 submits that the Commissioner verified the records and found that the land in survey No.330 is classified as 'Channel Poramboke', 'Burial Ground' and 'Kunta Poramboke' and therefore, ryotwari patta is prohibited under the provisions of the Act. He also placed reliance on a decision of Full Bench of this Court in **P.Chenchulakshamma v Estates Abolition Tribunal**[1]. He also opposed the writ petition contending that it is barred by delay and laches.

There cannot be any denial that the petitioner filed the instant writ petition after delay of more than one year. Even though there is a delay, as the learned Assistant Government Pleader has not shown any prejudice to any third party that may be caused by deciding the writ petition, this Court is not inclined to bar writ petition on the ground of delay.

The submission that the impugned order does not disclose reasons is misconceived. The first respondent, after verifying the records especially land register of the village pertaining to pre-abolition period held that the land in survey No.33 is classified as 'Channel Poramboke', 'Burial Ground' and 'Kunta Poramboke'. Secondly, it was also found that the petitioner obtained DKT patta in the name of this wife. From this, an inference was drawn that if the petitioner was not inducted into possession of the subject land prior to 01.07.1945 as otherwise he would have raised an objection for grant of DKT patta to his wife. These are certainly valid reasons for denying 'ryotwari patta'.

Under Section 11 of the Act every ryot in the estate shall be entitled to ryotwari patta in respect of ryoti land. Similarly, under

Section 12 landlord shall be entitled to ryotwari patta in respect of private land belonging to Zamindar if the same is under cultivation. The grant of patta either under Sections 11, 12 or 13, however subject to provisions of Section 13(b) of the Act, which reads as under.

> 13(b)(i) All lands which were properly included, or which ought to have been properly included, in the holding of a ryot and which have been acquired by the landholder, by inheritance or succession under a will, provided that the landholder **has cultivated such lands himself, by his own servants or by hired labour**, with his own or hired stock, in the ordinary course of husbandry, from the date of such acquisition or the 1st day of July, 1945, whichever is later and has been in direct and continuous possession of such lands from such later date;
>
> (ii) all lands which were properly included, or which ought to have been properly included in the holding of a ryot and which have been acquired by the landholder by purchase, exchange or gift, including purchase at a sale for arrears of rent, provided that **the landholder has cultivated such lands himself, by his own servants or by hired labour,** with his own or hired stock, in the ordinary course of husbandry from the 1st day of July, 1945, and has been in direct and continuous possession of such lands from that date;
>
> (iii) all lands (not being (i) lanks lands, (ii) lands of the description specified in Section 3, clause (16), sub-clauses (a), (b) and (c) of the Estate Land Act, or (iii) forest lands which have been abandoned or relinquished by a ryot, or which have never been in the occupation of a ryot, provided that the landholder has cultivated such lands himself, by his own servants or hired labour, with his own or hired stock, in the ordinary course of husbandry, from the 1st day of July, 1945, and has been in direct and continuous possession of such lands from that date.
>
> (emphasis supplied)

Therefore, grant of ryotwari patta under Section 11(a) of the Act is prohibited in respect of the categories of land as mentioned in Section 13(b)(iii) of the Act. The grant of patta in respect of Kunta land, burial ground or other communal land is certainly prohibited as held by Full Bench of this Court in **P.Chenchulakshamma** (supra). In the said Judgment, it was held as under.

> The following principles emerge from the aforesaid discussion; Lanka Lands, lands of the description specified in Section 3 (16) (a) (b) and (c) of the Estates Land Act, and forest lands are excluded from the purview of Section 13(b) (iii) of the Abolition Act and no ryotwari pattas could be granted to the landholder under that provision in respect of those lands. The mere non-user of the communal lands for the purposes for which they were intended and set apart, as

> on the date of the application of the Abolition Act to the estate is not material and does not alter their communal character, if, by the time the Abolition Act came to be applied to the estate in which they are situate, they ere lands coming within the description specified in Section 3 (16) (a) (b) and (c) of the Estates Land Act. Despite the disuse to which they have fallen and despite the other users they have been unauthorisedly and illegally put to they would nonetheless continue to be lands belonging to the category specified in Section 3 (16) (a) (b) and (c) of the Estates Land Act in the absence of any order under Section 20-A (1)(b) of the Estates Land Act.

A reference may also be made to a decision of Division Bench of this Court, to which I was a member, in **Director of Settlements, Hyderabad v Neerupaka Rama Krishna**[2]. In the said case, patta was claimed in respect of the land of Venkatagiri Estate, which was described in the revenue records as burial ground/poramboke land. Referring to Section 13(b) of the Act, this Court held that the grant of ryotwari patta under Section 11 of the Act is prohibited in respect of lands, which are classified as grazing/porakboke lands and which are not under cultivation. The learned counsel, however, vehemently contends that the first respondent ignored abundant evidence to show that the petitioner is in possession of the cultivable land in respect of which patta was sought. This is a question of fact, which cannot be decided in the writ petition. Even otherwise as per the provisions of the Act, the nature and history of the land as on the date of coming into force of the Act, has to be taken into consideration and the petitioner failed to prove that the land, which is allegedly in possession, is not one of the prohibited categories of lands for claiming ryotwari patta.

The writ petition is misconceived and is accordingly dismissed. No costs.

**(V.V.S.RAO,J)**

15.03.2007.
pln

---

[1] AIR 1972 AP 1 (FB) = 1971(2) An WR 363

[2] 2001(5) ALD 828 (DB)